

Bryan Cave LLP  
560 Mission Street, 25th Floor  
San Francisco, CA 94105

**BRYAN CAVE LLP**

James Goldberg, California Bar No. 107990

Thomas S. Lee, California Bar No. 275706

560 Mission Street, 25<sup>th</sup> Floor

Telephone: (415) 675-3400

Facsimile: (415) 675-3434

E-Mail: james.goldberg@bryancave.com

E-Mail: tom.lee@bryancave.com

Attorneys for Defendants

COUNTRYWIDE HOME LOANS, INC.,

COUNTRYWIDE FINANCIAL CORPORATION,

BANK OF AMERICA CORPORATION, KENNETH LEWIS,

DAVID SAMBOL and MICHAEL COLYER

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

SALMA MERRITT AND DAVID MERRITT,

Plaintiffs,

v.

COUNTRYWIDE FINANCIAL CORP.;  
COUNTRYWIDE HOME LOANS, INC.;  
BANK OF AMERICA; BEAR OF STERNS; JP  
MORGAN; MERSCORP; FINANCIAL TITLE  
CO.; CALWEST APPRAISAL; ANGELO  
MOZILO; DAVID SAMBOL; STANFORD  
KURLAND; MICHAEL COLYER; KENNETH  
LEWIS; JOHN BENSON; JOHNNY CHEN;  
BRYAN CAVE; JAMES GOLDBERG

Defendants.

Case No. 5:09-cv-01179 BLF

**DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' ADMINISTRATIVE  
MOTION TO EXTEND THEIR TIME**

Date Action Filed: March 18, 2009

Trial Date: Not set

On January 4, 2016, in response to Plaintiffs' request, Defendants agreed to the following continued deadlines, which Plaintiff David Merritt had himself proposed:

- Plaintiffs shall have until January 15, 2016, to file their reply brief in support of their Motion for Leave to Amend, which is presently scheduled for March 17, 2016;
- Plaintiffs shall have until February 5, 2016, to file their brief in opposition to Defendants' Motion to Dismiss, which is presently scheduled for May 5, 2016; and,
- The two motions may be heard together on either of the scheduled hearing dates or some other date, should the Court choose to consolidate the hearings.

Defendants do not oppose an order from the Court to that effect. Defendants do, however, oppose the March 5 deadline for Plaintiffs' Opposition to Defendants' Motion to Dismiss that Plaintiffs subsequently demanded, because that date would make it impossible for the two Motions, which are closely related, to both be fully briefed and heard on March 17, 2016, as the parties agreed, the Court permitting.

Defendants note that paragraph 17 of David Merritt's Declaration states, "On January 5, 2016, Goldberg sent Defendants version [of the parties' proposed stipulation] .... See Exhibit C." However, the document attached as Exhibit C is not the draft stipulation sent to the Merritts by Defendants. (Declaration of Thomas Lee ¶ 2, Ex. A). Mr. Merritt's Exhibit C alters the deadline for Plaintiffs' Opposition to Defendants' Motion to Dismiss (on page 1, line 28) to March 5, 2016, even though Defendants had twice rejected that date and even though the version sent by Defendants set a February 5, 2016, deadline (as further reflected in the [Proposed] Order on page 3 of Plaintiffs' Exhibit C).

Moreover, under Plaintiffs' original proposal, which Defendants agreed to, Plaintiffs will still have three weeks from filing their reply brief on January 15<sup>th</sup>, to prepare and file their opposition to the Motion to Dismiss on February 5<sup>th</sup>. This is sufficient time. Mr. Merritt does not allege that he will be incapacitated during that three week period

Finally, Plaintiffs have consistently attempted to manipulate the schedule of this litigation by repeatedly asking for continuances to delay their obligations and seeking to shorten time when

1 it will prejudice defendants. In this instance, Plaintiffs filed a motion to *shorten* time on their  
 2 Motion to Amend on December 18, 2015, and pursued it by filing a reply in support of that  
 3 Motion on December 23, 2015. Now Plaintiffs turn around and demand a continuance. They blow  
 4 hot and cold, as it suits their strategy.

5 In conclusion, Defendants request that the Plaintiffs be held to the schedule they proposed  
 6 and that Plaintiffs' Motion to Amend be heard the same day as Defendants' Motion to Dismiss,  
 7 preferably on March 17, 2016.

8  
 9  
 10 Dated: January 7, 2016

**BRYAN CAVE LLP**

James Goldberg  
 Thomas S. Lee

11  
 12  
 13 By: /s/ Thomas Lee

14 Thomas Lee

15 Attorneys for Defendants  
 16 COUNTRYWIDE HOME LOANS, INC.,  
 17 COUNTRYWIDE FINANCIAL CORPORATION,  
 18 BANK OF AMERICA CORPORATION,  
 19 KENNETH LEWIS, DAVID SAMBOL and  
 20 MICHAEL COLYER  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28